



Australian Government

# **Compliance and Enforcement Strategy—discussion paper**

Water Efficiency Labelling and  
Standards (WELS) scheme

**Water Efficiency Labelling and Standards Regulator**  
May 2017

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# Introduction

The Water Efficiency Labelling and Standards (WELS) scheme is Australia's urban water-saving scheme that specifies and enforces efficiency standards and labels on water-using appliances, fixtures and fittings. The scheme is an industry-government partnership that encourages advances in and adoption of water-saving technologies. WELS helps business and consumers to make decisions that reduce household water use and save money on water and energy bills.

The *Water Efficiency Labelling and Standards Act 2005* (WELS Act) requires all WELS products to be correctly registered and labelled. Compliance with these requirements ensures consumers can continue to make informed choices and the scheme continues to deliver on its objectives of conserving water, providing information and promoting the adoption of water-efficient technologies. Widespread compliance is also important to ensure that all businesses pay their fair share of scheme operating costs. Eighty per cent of WELS funding comes from industry registration fees, and businesses that pay to register all their products in keeping with scheme requirements should not be disadvantaged relative to a minority that do not pay.

Industry is broadly compliant. An estimated 90 per cent of businesses are either compliant or cooperating with the WELS Regulator to become compliant. However, continued compliance and enforcement activity is important to maintain the integrity of the WELS scheme and ensure industry and consumer expectations are met. This is why the WELS Regulator is undertaking a consultation process with WELS stakeholders to get your views.

## Aim of this consultation

The key aim of this consultation is to identify areas where compliance and enforcement efforts should be focused over the coming three years, from 2017 to 2020. We want the views of WELS industry stakeholders on where resources should be targeted, to ensure compliance and enforcement activities are as effective as possible.

## Areas of focus

The WELS Regulator is seeking your views on any or all of the below focus areas:

- **the level and breadth of compliance with the requirements of the WELS Act**
  - have your say on how compliant you think industry is with WELS. Do most businesses comply, or are a large number non-compliant? Are some sectors largely compliant, while in other sectors non-compliance is commonplace? If so, which sectors are most or least prone to non-compliance?
- **existing risks of non-compliance to the WELS scheme**
  - have your say on where the greatest risks of non-compliance currently sit. Examples could be specific product types; particular segments of the industry; stages in the manufacturing or approvals process; or parts of the supply chain, which extends from manufacturer to builders, developers or retailers who supply directly to consumers.

- **emerging or potential future risks to the WELS scheme**

- have your say on where the greatest risks of non-compliance are likely to be in the future. Are there changes happening in the industry that might make certain types of non-compliance more common, such as changes to the way goods are marketed, sold or manufactured? If certain types of non-compliance are likely to become more commonplace, where and how are these likely to become evident? As with the previous question, your response could identify particular industry sectors, product types or steps in the supply chain for WELS products.

The WELS Regulator is focusing this consultation on compliance with the scheme and is not seeking input on the scheme itself. This consultation is an opportunity for industry to provide input to a compliance and enforcement strategy and is not intended for specific complaints or information about non-compliant individuals or companies. If you wish to make a complaint or report non-compliance, please contact [welscompliance@agriculture.gov.au](mailto:welscompliance@agriculture.gov.au).

Note that while consumers and members of the public are welcome to make submissions, the primary focus of this consultation is to gather industry views. This is a step in joint industry-government development of a WELS compliance strategy, as agreed by industry stakeholders and the Australian, state and territory governments under the [WELS Strategic Plan 2016-2019](#).

## How to get involved

As an industry participant in the WELS scheme, this is your opportunity to have your say. Industry participants are strongly encouraged to make written submissions in response to this discussion paper. The department will not publish submissions or otherwise make them publicly available, although de-identified aggregated information from submissions will be published in ways that do not allow the identification of individuals or organisations.

Submissions will be accepted up to 5.00pm AEST on Friday, 7 July 2017.

Submissions must include the provided [cover sheet](#) and should be emailed to [welsconsultation@agriculture.gov.au](mailto:welsconsultation@agriculture.gov.au) or posted to the following address:

The WELS Regulator  
Department of Agriculture and Water Resources  
GPO Box 858  
Canberra City ACT 2601

For questions about the consultation, or to provide input via telephone, please call WELS Compliance on 1800 372 746.

## Consultation process

Responses will be pooled and a summary will be prepared and used to draw conclusions regarding views. The summary and analysis will form the basis of a draft WELS Compliance and Enforcement Strategy.

The WELS Industry Advisory Group (WELSAG) and WELS State and Territories Officials Group (WELSOG) will be consulted on the summary report and initial draft of the WELS Compliance

and Enforcement Strategy. The final approved report and strategy will be published on [www.waterrating.gov.au](http://www.waterrating.gov.au). The process is expected to be finalised by December 2017.

# Informing the Compliance and Enforcement Strategy—how we got here

The WELS Regulator is working with stakeholders to develop the WELS Compliance and Enforcement Strategy which will guide and focus compliance and enforcement activity over the three year period, 2017–2020.

The development of the WELS Compliance and Enforcement Strategy is linked to two key framework documents: the [WELS Compliance and Enforcement Policy](#) and the [Second independent review of the WELS Scheme](#).

## **WELS Compliance and Enforcement Policy**

The WELS Regulator has approved and published the WELS Compliance and Enforcement Policy. This Policy:

- sets out the approach taken by the Regulator to maximise compliance with the requirements of the WELS Act
- sets out the compliance and enforcement tools provided by the WELS Act
- assists the Regulator in making sound, defensible decisions in relation to compliance and enforcement actions.

The Policy provides that in undertaking compliance and enforcement activities, the WELS Regulator aims to work co-operatively with industry participants. Where non-compliance cannot be resolved cooperatively, the Regulator will seek to resolve non-compliance using the full force of the law.

## **Second independent review of the Water Efficiency Labelling and Standards scheme**

The report on the *Second independent review of the WELS scheme* was published in 2015. Overall, the review found the scheme to be appropriate, effective and efficient.

In regard to compliance and enforcement, the review concluded that compliance with the requirements of the WELS scheme is generally high across industry and that current compliance and enforcement arrangements appear to be effective.

The review recommended that compliance and enforcement should move to a risk-based approach to ensure that responses to non-compliance are proportionate to the risks to the scheme and responsive to emerging risks (see Recommendation 3). This recommendation has been accepted by governments in a Joint Government Response which was agreed by the Commonwealth, state and territory governments.

### **Recommendation 3:**

Compliance and enforcement activities for the WELS scheme should move to a risk-based approach. This should include:

- 1) development of a risk-based compliance and enforcement framework (developed in consultation with industry)
- 2) improved education, assistance, support and advice for industry to enable stakeholders to meet their legal obligations under the WELS Act 2005, without the need to escalate costly enforcement action

(Source: Aither 2015, *Second independent review of the WELS Scheme—final report*)

## Developing the WELS Compliance and Enforcement Strategy

When the WELS scheme commenced in 2005, the focus of compliance activity was primarily on education and assisting industry participants to achieve compliance. More recently, with the maturing of the WELS Scheme, a stronger enforcement stance has evolved to meet the expectations of industry.

As of 2017, some notable compliance matters include:

- Since 2015, the WELS Regulator has increased focus on the online supply of WELS products, culminating with the launch of a compliance program with eBay, with ongoing work in this area.
- Significant non-compliance has been identified with the supply of showers in the Australian market – a number of these showers have been found to not meet the water efficiency performance specified in their registration.
- Check-testing of products is an action that may need greater emphasis, though this would add costs to the WELS Scheme – check-testing would need to be targeted and based on solid grounds of suspected non-compliance.
- Work is being undertaken by the WELS Regulator to build greater intelligence capacity, sourcing information from inspections, retail marketing, builders/developers and other areas of the supply chain, to focus compliance and enforcement on the most appropriate point of the supply chain.
- Consideration of recovering costs associated with identifying and rectifying non-compliance, such as check-testing of products, from those industry participants responsible for that non-compliance.

## Contact

For more information, visit [www.waterrating.gov.au](http://www.waterrating.gov.au).

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